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Recent Whiplash Damage Awards

Esther Weissman*

IN VIEWING MORE THAN 100 recent appellate cases concerning whiplash, one is struck by the lack of any definite standard or pattern of awards.

Medical Aspects

Whiplash denotes a type of injury in which the body has been jerked and the lagging, freely movable head has snapped, resulting in what seems to be minor injury of the neck.¹ First there is a bending backwards, immediately followed by a bending forwards. In doing this the entire neck region may be affected.

The cervical spine (neck area) is composed of seven separate and distinct bony segments called vertebrae. They are separated from each other by resilient cartilaginous intervertebral discs.² Eight pairs of nerve roots emanate from the cervical spine. Two nerve roots originate on each side of the spinal cord (the spinal cord passes through the center of the cervical spine). The nerves leave the spinal cord through openings between the vertebrae. These openings are called foramina.³

Nerve roots below the second cervical vertebra may be injured when the neck is bent backwards and a momentary partial dislocation (subluxation) of some of the joints takes place, causing a temporary narrowing of the opening between the cervical vertebrae.⁴ In whiplash the narrowing usually takes place between the fifth and sixth and the fourth and fifth vertebrae.⁵ The nerve roots exiting from these openings are consequently caught in pincers, causing nerve root compression.⁶

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¹ Abbott, *Whiplash Injuries of the Neck*, 6 Clev-Mar L. R. 473 (1957). See also, Oleck, *Damages to Persons and Property*, §§ 442 A-H (1961 revision).

² Wise, *Radiographic Aspects of Whiplash Injury of the Cervical Spine*, 6 Clev.-Mar. L. R. 504 (1957).

³ Bernstein, *Whiplash, Its Medical-Legal Aspects*, 43 (1958).

⁴ McNeal, *Whiplash-Defense Counsel's View*, 6 Clev-Mar. L. R. 38 (1957); Seletz, *Whiplash Injuries—A New Concept and the Medicolegal Implications*, 6 Med. Tr. T. Q. 59 (Mar. 1960).

⁵ Nelson, *Physician's View of Whiplash Injuries of the Neck*, 6 Clev.-Mar. L. R. 489 (1957).

⁶ Seletz, *op. cit. supra* n. 4.

In all nerve root compression the resultant problem is "radiculitis," or radiating pain over the area through which the nerve extends. And since the dislocation was only temporary or momentary it will not later show up on X-ray for objective verification.⁷

The occipital nerve, which is based from the second cervical spine nerve roots, is particularly susceptible to injury because the second cervical roots are not protected posteriorly by bone structure as are the other nerve roots. And also the second cervical spinal root makes its exit between the first and second cervical vertebrae, which is the point of greatest rotation of the head on the neck.⁸ A forcible bending of the head may cause stretching of this nerve, which supplies the major portions of the scalp, upper part of the neck and portions of the face, and will result in pain in any or all of these areas.⁹

Unfortunately nerve root injury itself is not demonstrable by use of X-ray. Though the electromyograph may be of some value,¹⁰ the main manifestation of the injury is by subjective symptoms.¹¹ However, where there is a nerve root involvement the pain and tenderness should follow the anatomical distribution of the nerve root. And there should be localized areas of tenderness and/or muscle spasm anywhere along the distribution of the irritated nerve.¹²

The ligaments and other soft tissue in the neck which have been stretched and injured in the accident also will not show up on X-ray, and present another problem of evaluation of the actual injury and pain and suffering. Torn neck ligaments which never completely heal will allow excessive movement of the bony elements of the neck and cause stretching of the surrounding soft tissue, which in turn will cause pain and stiffness.¹³ Torn neck ligaments also result in scar tissue which will always be a possible cause of future pain.

There is also an interrelationship of injury. In the event

⁷ Wise, *op. cit. supra* n. 2.

⁸ Seletz, *op cit. supra* n. 4.

⁹ *Ibid.*

¹⁰ 3 Curr. Med. for Attorneys 16 (1956), The Electromyograph; A New Test for Nerve Injury.

¹¹ Bernstein, *op. cit. supra* n. 3.

¹² Jackson, The Cervical Syndrome 3 (1956).

¹³ 3 Curr. Med. for Attorneys 20 (1956), Instability of the Neck Due to Trauma.

of muscle damage, such as hemorrhage, swelling, sprain or strain, almost inevitably its nerve supply may be interfered with since the nerve supply is integrated into the muscle. Similarly, if there is a compression of the spinal nerve root as it emerges from the cervical vertebrae opening, there may be interference with the motor or sensory function of the muscle. Muscle injury may cause nerve damage and nerve injury may cause muscle damage and neither is particularly susceptible to objective symptoms.¹⁴

Another problem is the length of time it takes the actual symptoms to appear. There is much controversy on this point, and courts have dealt with the validity of claims where the symptoms do not appear until months after the accident.¹⁵

In addition to the problem of medical evaluation of the whiplash injury itself, there must also be kept in mind the many possible complications that usually occur with neck injuries, such as cerebral concussion, irritation of the nerve roots, cervical disc injuries, pre-existing arthritis aggravation, psychological problems, fractures, dislocations, and lower back injuries.¹⁶

Trends in Appellate Decisions

The grounds for appeal in appellate cases on whiplash usually are that the award is excessive and/or that the award shows passion and prejudice on the part of jury.¹⁷ In these cases the court then examines the record of the trial court to see if the evidence does in fact show sufficient grounds to sustain the verdict. It is here that one is surprised by the standards (or lack of them) which the courts use in making their decisions. Though medical testimony is given in most cases, one gets the feeling that the courts, realizing the inadequacy of and problems attendant upon medical testimony, rely heavily on testimony as to the actual incapacity of the plaintiff, as shown by various means. In this connection the most frequently mentioned factor

¹⁴ Bernstein, *op cit. supra* n. 3.

¹⁵ *Ruth v. Fenchel*, 37 N. J. Super 295, 117 A. 2d 284 (1955); 3 *Curr. Med. for Attorneys* 7 (1956), How Long After an Accident Should Symptoms of Whiplash Begin to Appear?

¹⁶ 4 *Curr. Med. for Attorneys* 11 (1957), The Plaintiff Looks at Whiplash Injuries.

¹⁷ In Ohio, if the trial court without abuse of discretion finds that the verdict is so excessive as to require a remittitur, it may order remittitur, and a new trial will not be granted unless the verdict shows that it was given under the influence of passion and prejudice. *Larrissey v. Truck Lines*, 155 Ohio St. 207 (1951).

is traction; whether or not the plaintiff was in traction, for how long a period, and how many hours per day. Related to traction, and actually the second most mentioned point, is the wearing of a cervical collar. Here again the courts seem to look at the actual inconvenience the plaintiff was willing to go through, as a means of judging truthfulness, and actual pain and suffering due to the injury.

However, the medical symptoms which do appear to be used as guides are limitation of neck motion, muscle spasm, muscle tenderness, and with much less frequency headaches, dizziness, and numbness of hands or fingers. Also, medical testimony as to permanent disability runs throughout all the cases.

In reading the cases it can be said quite definitely that there is no one factor which would guarantee a settlement of a particular size. A good example is that of fractured vertebrae, which would seem to be a serious injury and one that has the benefit of being proved objectively, and here the awards varied from \$25,000 to \$2,500.¹⁸

Changes in the cervical curvature were rarely mentioned in the cases.¹⁹ And other objective symptoms such as subluxation, spurs and degenerative changes in the limbs were so infrequently mentioned as to appear to be considered by the courts of no great import.²⁰

Of course the standards used by an appellate court often are different from those used by a jury. And even in the appellate decisions the testimony the court actually discusses sometimes may not be determinative. But generally speaking, the combination of objectively demonstrated inconvenience and discomfort plus the medical testimony as to permanent disability and objective symptoms would seem to add up to the basis on which appellate courts re-examine and usually uphold jury verdicts on whiplash.

¹⁸ 2,500. *Scott v. U. S.*, 127 F. Supp. 422 (N. D. Fla. 1955); 4,233.90. *Hogg v. Department of Highways of State of La.*, 80 So. 2d 182 (1955); 9,000. *Lake v. Neubauer*, 87 N. W. 2d 888 (No. Dak., 1958); 18,000. *Twin City Lines v. Houck*, 226 Ark. 124, 289 S. W. 2d 198 (1956). 25,000. *Marshall v. Meade*, 201 N. Y. S. 2d 188 (1960).

¹⁹ Medically even this is questionable. See *Nelson*, *op. cit. supra* n. 5 at p. 493.

²⁰ Spurring, however, usually will not take place until many months after the injury and after the narrowing of the cervical intervertebral space. If it does appear on x-rays taken immediately after the accident this would tend to indicate that the narrowed interspace was not due to the accident. See *Wise*, *op. cit. supra* n. 2 at p. 504.

Jury Verdicts

A comprehensive survey based on 2,957 recent jury verdicts involving neck and back injuries has been compiled by the Valuation Handbook Service,²¹ published by Statewide Jury Verdicts. This study surveyed the relation between the jury awards and the amount of medical expenses and loss of earnings of the plaintiffs, referred to as "specials." It found a very clear pattern, which "confirmed the widely held premise that as the amount of specials increases, the size of the verdicts rendered tends to increase."²²

From this survey it is clear that jury decisions in neck injury cases are not tending, without foundation, toward astronomical figures; that on the whole the verdicts being returned by juries in cases of neck injury are quite moderate in relation to the losses sustained by the plaintiffs.

It is interesting to note that the ratio between specials and the average and mid-point verdicts declines considerably as the specials increase.

Jury Verdicts in Cases of Cervical Area Strain*

Specials	Mid-Point Verdict	Average (Mean) Verdict	Verdict Range	Range of Middle 50% of Verdicts
\$ 1- 199	\$ 814	\$ 1,051	\$ 35- 7,500	\$ 500- 1,000
200- 499	1,215	1,758	100-14,000	750- 1,600
500- 999	2,868	3,606	215-25,640	2,000- 4,500
1,000- 1,999	3,250	4,249	525-15,000	2,000- 5,250
2,000- 3,499	3,550	4,610	500-14,039	1,750- 6,100
3,500- 4,999	6,500	10,946	500-42,500	1,500-12,000
5,000- 7,499	6,700	8,893	1,700-26,000	5,000- 9,000
7,500-12,500	15,000	18,166	4,000-38,000	8,000-32,500

* The figures in this chart were obtained from the compilation by Valuation Handbook Service (see n. 21).

The plaintiff whose monetary loss is only \$100 averages about ten times his loss in the jury award. The plaintiff whose expenses resulting from the injury were \$1500 will be awarded only two to three times his loss, while the plaintiff whose injury cost \$3000 will get back only about one and a half times his direct loss.

²¹ Published monthly by the Statewide Jury Verdicts Publishing Company, Cleveland 14, Ohio.

²² Valuation Handbook Service, p. 7.

In other words, the plaintiff who cannot demonstrate any significant financial loss resulting from the injury, in the way of loss of earnings or medical expense, can still do well before the jury in relation to his loss.

As long as juries tend to be so generous with small claims and restrained with large ones, it would seem that they will be furthering a tendency to inflate the nuisance value of minor neck injury claims and to penalize the victims of severe injury. It is to be hoped that as the medical profession's knowledge of, and the public's general familiarity with, whiplash increases, this trend will be reversed.

Conclusion

The term whiplash and the injury it encompasses is actually only a new concept for an old injury. And it is a concept which is expanding. In a recent case of a man who fell when a ladder slipped, the injury was diagnosed as a "whiplash injury to the neck."²³ This is a far reaching extension of the idea of whiplash resulting from rear-end collisions. Even in the area of automobile accidents there are indications that a whiplash injury may occur by a "side-swipe" and actually be a more disabling injury than one caused by a rear-end collision, since the head and neck are turned at the time of the impact rather than forced forward.²⁴ In connection with this expanding view of whiplash Dr. Jackson in a recent book stated:

Traumatic incidents other than automobile accidents may cause cervical syndrome.²⁵ The neck may be strained by traumatic incidents such as: blows on the chin or head; an unexpected vigorous pull on the arms (such as may occur when one loses his step and grasps the nearest handrail); a sudden thrusting force on the arms (such as a fall on the sidewalk on the outstretched hand); and finally, any fall which can produce a sudden snapping of the neck or any sudden forceful movement of the neck.²⁶

One can have no complaints that a concept of an injury is expanding, but it does present some cause for concern when

²³ *Maceda v. Ellis Chengos Construction Corp.*, 200 N. Y. S. 2d 720, 22 Misc. 2d 269 (1960).

²⁴ Frankel, *JAMA*, 216 (1-17-59) as cited in 4 *Curr. Med. for Attorneys* 33 (1959).

²⁵ Whiplash.

²⁶ Jackson, *op. cit. supra* n. 12 at p. 49.

the problem and grounds of evaluating the injury are so nebulous and subjective. It can only be hoped that with the medical profession's expanding view of whiplash some objective standards will be developed.

1955

\$10,000 (First jury verdict of \$2,000 had been set aside). Woman, had pain and stiffness in neck as well as radiating pains and accompanying numbness and tingling in the hands. She wore a cervical collar twenty-four hours a day and one year after accident still had great pain. Also had a shoulder injury which was permanent. *Ruth v. Genchel*, 37 N. J. Super. 295, 117 A. 2d 284.

\$8,500. Woman, in hospital for a week, tearing of ligaments supporting the cervical spine. As a result would continue to suffer pain over a period of time. Also sustained contusion to right elbow and calcium deposit in shoulder. Recovery included medical expenses, loss of earnings and pain and suffering. *Illinois Central R. R. Co. v. Brashier*, 224 Miss. 588, 80 So. 2d 739.

\$7,500 (\$2,500 for the injury). Woman, some limitation of neck movement, no nerve damage but had headaches until week before trial. *Attaya v. Zimmerle, Jr., La.*, 83 So. 2d 676.

\$7,500 (\$6,000 pain and suffering). Man, earning ability at time of trial reduced 50% or better and would probably have additional medical treatment twice a month for an indefinite period as well as continue to suffer pain. Loss of earnings \$1,100 and accrued medical expenses \$600. Doctor said his injuries were probably of a permanent nature. *Town and Country Securities v. Place*, 79 Ariz., 122, 285 P. 2d 165.

\$4,233.90. Man, fractured cervical vertebrae, concussion, injuries to his knee and a slight impairment of motion in the neck with some discomfort. *Hogg v. Department of Highways, La.*, 80 So. 2d 182.

\$2,500. Man, minor fracture of the vertebrae in his neck, not as physically active as before accident but never forced into bed as a result. *Scott v. U. S.*, 127 F. Supp. 422 (N. D. Fla.).

\$2,000. Woman, question as to how much actual permanent damage to cervical vertebrae, but had some pain and suffering, though not serious, accompanied by a permanent organic disturbance. *Benoit v. Commercial Casualty Insurance Co., La.*, 79 So. 2d 647.

1956

\$18,000. Woman, permanently disabled by a fractured vertebra and may have to wear a rigid brace for the rest of her life. *Twin City Lines v. Houck*, 226 Ark. 124, 289 S. W. 2d 198.

\$15,000. Woman, as a result of injury required a disc operation. *Turley v. Rothman*, 385 Pa. 27, 122 A. 2d 84.

\$7,000. Man, medical evidence showed in addition to whip-lash injury a brain concussion, injury to the right supinator muscle, lesion of the ulnar nerve. Had numbness of the three central fingers of right hand, a neurosis plus a post concussion syndrome. His medical expenses were \$340 and loss of earnings \$740. *Neumann v. Metropolitan Tobacco Co.*, 189 N. Y. S. 2d 600.

\$5,600. Man, restriction of neck in all directions, tenderness over neck muscles. Had headaches, dizziness and tracular neuritis from nerves in back. There were also tears and bleeding in the muscle resulting in scar tissue. Lost two months work, and was in traction while in the hospital, for one week. Doctor said he had 15% permanent disability. *Baker v. United States Fire Insurance, La.*, 89 So. 2d 405.

\$3,744.50. Man, sprain of neck muscles and apparently some injury to neck nerves. Unable to rotate head without experiencing pain, which medical testimony attributed to a disturbance of a nerve. Healing would take several months. *Tarner v. Travelers Insurance Co., La.*, 87 So. 2d 794.

1957

\$17,500. Woman, had a partial dislocation of a vertebra. Also had a diagnosis of traumatic anxiety neurosis. Prior to this accident she had a pathological condition of her pelvic viscera, this condition was made worse and a hysterectomy was required. *Ohio Casualty Insurance Co. v. Brown*, 241 F. 2d 795 (5th Cir.).

\$16,072.45. (Evidence showed \$1,072.45 car damage, medical expense \$305 and loss of earnings \$2,000). Man, permanent injury, restriction of neck motion due to injury to soft tissue and resultant scar tissue. *Aberhaus v. Eichwald, Mo.*, 303 S. W. 2d 29.

\$8,000. Woman, at time of trial there was probability of a herniated intervertebral disc (this was later confirmed by a test made after the trial). There was definite possibility of either permanent disability or of major surgery costing \$1,350 and re-

quiring six months loss of earnings. *Johnson v. Wilson, La.*, 97 So. 2d 674.

\$6,000. Woman, sprain type of injury, no permanent injuries, no dislocation and while active motion was restricted 50% she would be fully recovered in nine to eighteen months. Also has "a sequela of occipital nerve neuralgia" causing considerable suffering and mental anguish. *Bartholomaeus v. H. G. Hill Stores Inc., La.*, 97 So. 2d 82.

\$6,000. Man, for twenty-five days, every day or every other day went to doctor. Medical testimony said he suffered considerable pain in the neck and shoulders and the hip when walking. He had some stiffness and limitation of motion in the neck, and a mild tremor in his hands. There was also considerable tenderness on the side of the neck and in the lumbrosacral joint. But no permanent disability except in scar tissue. *Hedges v. Neace, Ky.*, 307 S. W. 2d 564.

\$4,250.00. Woman, a year after accident still not recovered and complete recovery improbable. Had sprain type whiplash, causing stiffness and pain when rotating neck and possibility of pinched nerves in neck. Also some testimony that there was impairment of a normal sex life as well as that one of her legs had become shorter than the other. *Jordan v. Johnson, Okla.*, 315 P. 2d 234.

\$2,500. Man, had medical treatment for five months. Complained of back injuries but had had similar injuries twice before. Medical bills \$292.50 and loss of earnings nebulous. *Van Ostrum v. State of California*, 148 Cal. App. 2d 1, 306 P. 2d 44.

\$3,000. Woman, severe sprain, but little restriction in motion of neck, no muscle spasm or tenderness. Spent eight days in the hospital. Total medical and property damage amounted to \$615.55. Trial court felt she was dishonest, however appellate court sustained jury verdict, stating "a person does not generally spend eight days in a hospital after an automobile accident without experiencing some pain and suffering and without having been injured to some extent." *Powell v. Continental Banking Co.*, 49 Wash. 2d. 753, 306 P. 2d 757.

1958

\$25,000 (Original jury verdict of \$12,000 on appeal was reversed and remanded for new trial which gave this verdict). Woman, thirty-five, sprain to cervical spine, sprain to dorsal

spine, sprain to lumbar spine and contusions of the chest. She was in traction for her neck and had a plastic cast over the entire trunk of her body in order to immobilize the spine. Had 10% permanent disability to her cervical spine, 15% permanent disability to the lower spine, 15 degree limitation in raising her left leg. Medical and other expenses \$2,000. *Rountree v. Rountree*, 200 Va. 57, 104 S. E. 2d 42.

\$20,000 (no medical bills or property damage). Woman, injury to the central nervous system. Had much pain, inability to move her neck, loss of flexion of cervical spine of 30 degrees and 45 degree loss of rotation of the neck. Considerable muscle spasm. Before trial showed some improvement but rotation of cervical spine was still limited 20 degrees and there was definite muscle spasm in the neck. Had degenerative changes in the nerves of the spine resulting in wasting and decrease in the measurements of her right arm and in pinpoint sensation over the right side of the right shoulder blade. Doctor also stated that in his opinion she had 50 to 60% disability of the body as a whole and that her condition is permanent and she will get worse. *Riggs v. Metcalf*, Mo., 315 S. W. 2d 791.

\$15,700. Woman. In this case the appellate court simply said "the damages awarded by the jury were reasonably within the range of the evidence and are supported by the record." *Masterjohn v. Olberg*, 53 Wash. 2d 206, 332 P. 2d 249.

\$10,000. Man, due to injury gave up his job as a bus driver for one of much lower pay. Had soft tissue injury to low back region, neuritis, sore ulnar nerve causing pain in right forearm and hand. Soft tissues in neck injured. Had permanent partial disability of 15-20% to his right elbow and still had pain and discomfort in his neck and low back area at the time of the trial. *Arnold v. Lance*, 166 Neb. 834, 90 N. W. 2d 814.

\$9,000. Woman, some injury to the neck vertebrae, muscles in back of neck injured and motion limited about 25%. X-rays showed a slip forward of the sixth vertebra onto the seventh and a small fracture in the back portion of the seventh. Doctor testified that plaintiff would have severe headaches and pains in her head caused by pressure and irritation of the nerves. Condition would be permanent unless a very serious and dangerous operation was performed. Also had injury to her knees. *Lake v. Neubauer*, No. Dak., 87 N. W. 2d 888.

\$8,690. Woman, had traction and diathermy treatment in her home every day, wears a cervical collar continuously, even while

sleeping, and will continue to do so for a year after trial. Had no loss of earnings but efficiency reduced 50% and consequently had to work longer hours and requires additional help in the home. Medical bills to time of trial \$1500 and future bills would probably be an additional \$1500. *Ross v. Foss*, So. Dak., 92 N. W. 2d 147.

\$6,000 (Jury awarded \$15,000, trial court reduced it to \$8,500 and appellate court further reduced it to \$6,000). Man, had two similar injuries in past eleven years, court found that though he attempted to separate them, there was a certain amount of "puffing" with regard to his subjective complaints. Complaints were headaches, pains in ears and head radiating down through spine and back, deafness, a heavy feeling in his eyes, pain in back of head which bothers him constantly, pain in both shoulders and in center and side of neck, soreness of the muscles in neck, and pain in nerve which radiates across the bottom of the neck. *Cermak v. Hertz Corp.*, 53 N. J. Super. 455, 147 A. 2d 800.

\$3,500. Woman, strain of back muscles of the neck and bruises over the right collar bone, some indication of nerve involvement, but no permanent injury and would probably fully recover in eighteen months. Injury basically one of soft tissues. Lost no time from work, though claimed she was unable to do housework. *Watts v. Delta Fire and Casualty Co.*, La., 106 So. 2d 752.

\$1,500 (Amount includes only pain and suffering, which was increased by court from jury verdict of \$651.50). Man, x-rays negative and no objective symptoms, diagnosis based completely on subjective complaints. Stayed in a clinic thirteen days but during stay would go out with wife. Medical \$661.99, loss of wages \$200, and property damage \$62.50. *Moses v. Southern Production Co.*, La., 101 So. 2d 485.

\$1,200 (Remanded by court as grossly inadequate). Man, injury involved disc between sixth and seventh cervical vertebrae. Pain and difficulty of neck movement, also had radiculitis of the second and third cervical nerve roots, as well as injury to the nerve roots at the third lumbar intervertebral joint probably caused by a ruptured intervertebral disc between the third and fourth lumbar vertebrae. Wore corset for low back injury and will continue to suffer pain. *Underwood v. Brockmeyer*, Mo., 318 S. W. 2d 192.

1959

\$16,247. Woman, twenty-one, had 10 to 15% permanent disability of the neck, which would restrict her social and personal life. Medical expenses were \$233.50. *Price v. Jordan*, Fla., 115 So. 2d 44.

\$15,999. Woman, nerve root pressure causing headaches, dizziness and lack of balance, medical testimony to effect that the condition might get worse, and at time of trial had 25% limitation in neck motion. Was in hospital fifteen days and used traction. *Fletcher v. Johnson*, Ark., 328 S. W. 2d 373.

\$15,000. Man, two years after accident had limitation of motion in neck and loss of normal curve in vertebral column. Medical testimony that his was a permanent condition. Also had muscle spasm and testified that he had pain in neck and shoulder every day. *Houston Transit Co. v. Steele*, Tex. Civ. App., 324 S. W. 2d 912.

\$12,000 (Jury had awarded \$16,500, plaintiff accepted remittitur to \$12,000). Woman, no medical testimony in appeal. *Gennrick v. Schrank*, 6 Wis. 2d 87, 93 N. W. 2d 876.

\$10,000. Girl, sixteen, had an incomplete tear of the ligaments holding the cervical vertebrae together, knots appeared and disappeared on neck frequently. Over a year after accident had a 20% disability to cervical spine with probably a permanent disability of 10% as well as continuing pain and discomfort to neck and back. *Milnor Fast Service Laundry and Cleaning v. Kraft*, 235 Miss. 180, 108 So. 2d 564.

\$7,950. Man, also had lesser injury to lower back. Had considerable pain, some straightening of the lower cervical spine and lower back was a little more horizontal than usual. *Southern Farm Bureau Casualty Insurance Co. v. Palmer*, 263 F. 2d 206 (5th Cir.).

\$7,000. Woman, question as to her being a malingerer. In hospital twice after accident, contended that accident precipitated a mental disability, had tenderness over muscles in neck and over shoulder blades. *Nowak v. Twin Pines Farm Dairy Inc.*, 356 Mich. 548, 97 N. W. 2d 126.

\$6,000 (Jury had awarded \$3,467, court increased total award to \$9,467.22 which included \$6,000 for pain and suffering, \$2,000 loss of income and \$1,467.22 medical and property damage). Man, injury to cervical and lumbrosacral regions, had thirteen physiotherapy treatments, wore neck collar and slept

in heavy traction. Had operation to relieve back pain but was unsuccessful though operation proved muscle was under considerable tension. Court said "medical evidence indicates the pain suffered by plaintiff is entirely due to a condition of the muscles, and the only objective indication of such pain susceptible to observation is muscle spasm." *Steadman v. American Fidelity and Casualty Co., La.*, 113 So. 2d 489.

\$5,000 (Original jury verdict was \$2,500). Girl, twelve, irritation of second cervical nerve causing severe headaches for over a year. Required pillow traction four or five times a day. Had muscle spasm and medical testimony said that though injury was not permanent she would not recover for about another year. She already had missed a year from school. *Dillon v. Pope, La.*, 110 So. 2d 229.

\$4,000. Woman, pain for one year. Had muscle spasm and 8 to 10% permanent disability of the body as a whole. Was a teacher and lost no time from school. *Harvey v. Great American Indemnity Co., La.*, 110 So. 2d 595.

\$3,500. Man, sixty, lost 134 working days at \$28 per day. Had strained tendons in neck and shoulders, spinal injury and shock to the nervous system and a general soreness over the body. Medical dispute as to extent and type of injuries. One doctor said he had evidence of chronic cervical syndrome and narrowing of the fourth cervical disc as well as degenerative arthritis and abnormality in motion of the neck. *Turchi v. Shepherd, Ark.*, 327 S. W. 2d 553.

\$3,500. Woman, tenderness over the fifth and sixth cervical vertebrae as well as muscles in neck. Had other complaints which doctors felt could be caused by pressures on the cervical nerves. *Crosby v. St. Louis County Cab Co., Mo.*, 320 S. W. 2d 944.

\$3,250. Woman, accident also aggravated a pre-existing lower back condition. Court found injury here largely psychosomatic. *Beaty v. Buckeye*, 179 F. Supp. 688 (E. D. Ark.).

\$2,000 (Specials were \$2,007.56). Woman, court said that jury could and presumably did find that large portion of medical and extended absence from work were unnecessary. *Lispshay v. Barr*, 54 Wash. 2d 257, 339 P. 2d 471.

\$1,025 (\$500 for injury, \$750 for pain and suffering). Woman, pregnant but had similar injury five years previous for which she collected \$1500. Court found no residual disability resulting from the injuries now sustained. *Barr v. Royal Equipment Co., La.*, 110 So. 2d 131.

\$1,150. Man, also had multiple contusions of cheek, back, abdomen and knees, but completely recovered from accident in two months. *Degeyter v. Trahan*, La., 113 So. 2d 508.

\$1,000. Man, eighty-one, had sprain type injury which caused pain and was in traction at various times. Fifteen months after accident was substantially recovered and had no undue restriction of motion except what accompanied his pre-existing arthritic condition. Medical expenses were \$267.47. *Dempsey v. U. S.*, 176 F. Supp. (W. D. Ark.).

\$1,000. Woman, had previously suffered nervous breakdown and at time of accident was on a convalescence trip. She testified as to pain in neck and arms as well as headaches and at trial was still taking medication. Had never been hospitalized and no limitation of motion of neck nor any muscle spasms. Physician diagnosed condition as psychoneurotic. *Lutz v. Schendel*, 175 Cal. App. 2d 140, 345 P. 2d 488.

\$400. Man, some tightness and damage to neck muscles, but his own doctor testified that he couldn't see why plaintiff was disabled. Medical was \$86.90. *McMahon v. Herring*, 236 Miss. 442, 110 So. 2d 617.

1960

\$25,000. Woman, evidence of a fractured vertebra, of ligamentous tears and hemorrhaging. Had constant traction, beginning with hospital traction approximately one month after the accident, and traction was being increased so that at time of trial twenty-five pounds was required to obtain relief. She used a neck brace intermittently from the time she left the hospital in June 1954 until some time in October 1954. A Thomas collar was first prescribed in February 1956 and has since used it frequently and regularly. There was involvement of lumbar spine and the sympathetic nervous system. There was dispute as to medical causation but none as to her condition. During six years since accident condition has become progressively worse and can be expected to worsen in the future. *Marshall v. Meade*, 201 N. Y. S. 2d 188.

\$20,000 (remanded for new trial on basis that award was excessive). Woman, much medical dispute as to extent of injuries, she stated loss of balance and buckling of right knee. Had subluxation of the fourth cervical vertebra and muscle spasm. Plaintiff's doctor testified that plaintiff would have 15%

permanent disability not in respect to bodily function, but insofar as her activities are concerned. *Pawlowski v. Marino*, 59 N. J. Super 511, 158 A. 2d 218.

\$18,500 (injury award \$17,158). Man, ladder slipped causing him to fall. Was in hospital for about a week and was put in traction. Wore a cervical collar constantly. Four years after accident still had persistent tenderness in the neck muscles. The tenderness and accompanying pain were permanent. *Maceda v. Ellis Chengos Construction Corp.*, 200 N. Y. S. 2d 720, 22 Misc. 2d 269.

\$10,000 (jury verdict \$21,000, appellate court lowered award to \$10,000). Woman, no traction necessary, no hospitalization, continued working for several months after the accident and a Thomas collar was not used until sometime later on the advice of a doctor. *Waldorf v. Sorbo*, 198 N. Y. S. 2d 555, 10 A. D. 2d 226.

\$2,000. Woman, had minimal whiplash producing temporary mild discomfort and a slight sprain of the left thumb and a slightly painful neuroma (foreign matter in a scar). Also had a cerebral concussion. Whiplash had healed two months after the accident. *Sheridan v. Deshotel*, La., 121 So. 2d 305.

\$1,800. Man, seventy-three, aggravated pre-existing arthritic condition which somewhat prolonged what would otherwise be a normal recovery. Medical testimony stated that he would probably fully recover from injury but due to age and pre-existing condition was not certain. *Wentz v. U. S.*, 182 F. Supp. 379 (E. D. Va.).

\$750. Woman, spent five days in hospital. Slept in traction with a cervical collar for about six weeks after leaving the hospital and worked regularly thereafter. Medical expenses were \$429.61. *Grantham v. York*, 26 Ill. App. 2d 278, 167 N. E. 2d 804.